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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------------------|-----------------------------|
| 10/566,204 | 01/27/2006 | Akira Sugiyama | P29145 | 1019 |
| 7055 7590 03/24/2011 GREENBLUM & BERNSTEIN, P.L.C. 1950 ROLAND CLARKE PLACE RESTON, VA 20191 | | | EXAMINER CHEN, VICTORIA W | |
| | | | ART UNIT 3779 | PAPER NUMBER |
| | | | NOTIFICATION DATE 03/24/2011 | DELIVERY MODE ELECTRONIC |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

gbpatent@gbpatent.com
pto@gbpatent.com

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/566,204 | SUGIYAMA ET AL. | |
| | Examiner | Art Unit | |
| | VICTORIA W. CHEN | 3779 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 November 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,5-13,20-26,35 and 36 is/are pending in the application.
- 4a) Of the above claim(s) 1,2,7-13 and 20-36 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 5,6,35 and 36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date. _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11/3/10 has been entered.

Specification

The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

The following title is suggested: Internal Treatment Apparatus Having Circumferential Side Apertures.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 5, 6, 35 and 36 are rejected under 35 U.S.C. 102(b) as being anticipated by Mitsuda et al. (US 6013024).

Regarding claim 5, Mitsuda discloses an internal treatment apparatus for a patient comprising a flexible tubular body [3] to be introduced into a patient, said flexible tubular body comprising: a center opening [Fig. 7, where A is located, also seen in Fig. 4] for inserting

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therethrough an endoscope [A] for observing a target site, said center opening extending through said flexible tubular body from a center of a distal end face of said flexible tubular body [Fig. 9A, B, the center opening is in the center of distal end face 3a], said distal end face facing said target site, and a plurality of circumferential apertures [Fig. 8, unlabeled notches in which G are located circumferentially around side face of distal end 3a] through which surgical instruments [G] are inserted for performing a surgical procedure on said target site, each of said plurality of circumferential apertures being provided to extend through a side face [Figs. 9A, 9B] of said flexible tubular body at said distal end face of said flexible tubular body. While the language claiming surgical instruments and an endoscope are considered functional in this claim, wires [G] are capable of being interpreted as surgical instruments.

Regarding claim 6, Mitsuda discloses an internal treatment system for a patient comprising: a flexible tubular body [3] to be introduced into a patient, said flexible tubular body including a center opening [Fig. 7, where A is located, also seen in Fig. 4] for inserting therethrough an endoscope [A] for observing a target site, said center opening being circular in cross section and extending through said flexible tubular body from a center of a distal end face of said flexible tubular body [Fig. 9A, B, the center opening is in the center of distal end face 3a], said distal end face facing said target site, and a plurality of circumferential apertures [Fig. 8, unlabeled notches in which G are located circumferentially around side face of distal end 3a] through which surgical instruments [G] are inserted for performing a surgical procedure on said target site, each of said plurality of circumferential apertures being provided to extend through a side face [Figs. 9A, 9B] of said flexible tubular body said distal end face of said flexible tubular body; a body manipulating device [29] for manipulating said flexible tubular body from outside

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said patient; an endoscope manipulating device [29] for manipulating said endoscope from outside said patient; and a surgical instrument manipulating device [11S] for manipulating said surgical instruments from outside said patient.

Regarding claims 35-36, Saadat discloses the flexible tubular body comprises a resiliently deflectable portion [Fig. 8, from 3b to 3a], and a circumferential opening portion [Fig. 9A, where unlabeled notches are] includes said plurality of circumferential apertures [notches], and the circumferential opening portion passes through the apparatus body from a side face of the deflectable portion toward a proximal end face of the apparatus body [notches extend proximally from side face at 3a].

Response to Arguments

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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|-------------------|----------|----------------------------|---|
| US 20090253961 A1 | US-PGPUB | LE; Tung Thanh et al. | ENDOSCOPIC SYSTEM WITH TORQUE TRANSMITTING SHEATH |
| US 20070282166 A1 | US-PGPUB | Ayala; Juan Carlos et al. | Endoscopic sleeve seal |
| US 20060178560 A1 | US-PGPUB | Saadat; Vahid et al. | Endoluminal tool deployment system |
| US 20060009740 A1 | US-PGPUB | Higgins; Michael et al. | Multiple lumen catheter having a soft tip |
| US 7846172 B2 | USPAT | Makower; Joshua | Device, system and method for interstitial transvascular intervention |
| US 7316655 B2 | USPAT | Garibotto; John et al. | Systems and methods for directing and snaring guidewires |
| US 6908427 B2 | USPAT | Fleener; Richard P. et al. | Flexible endoscope capsule |
| US 6873868 B2 | USPAT | Furnish; Simon M. | Multi-fiber catheter probe arrangement for tissue analysis or treatment |

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|---------------|-------|------------------------|--|
| US 6302875 B1 | USPAT | Makower; Joshua et al. | Catheters and related devices for forming passageways between blood vessels or other anatomical structures |
| US 5716321 A | USPAT | Kerin; John et al. | Method for maintaining separation between a falloposcope and a tubal wall |
| US 5499630 A | USPAT | Hiki; Susumu et al. | Catheter type ultrasound probe |
| US 5183471 A | USPAT | Wilk; Peter J. | Laparoscopic cannula |

Any inquiry concerning this communication or earlier communications from the examiner should be directed to VICTORIA W. CHEN whose telephone number is (571)272-3356. The examiner can normally be reached on Monday to Friday, 9AM-5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas J. Sweet can be reached on (571) 272-4761. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Victoria W Chen/
Examiner, Art Unit 3779

/John P Leubecker/
Primary Examiner, AU 3779